IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

LA.App..No. 58 of 2007(D)

LAR.344/2001 of ADL.SUB COURT, THALASSERY
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APPELLANT: 2ND RESPONDENT

GENERAL MANAGER,
TELECOM, BSNL, KANNUR.

BY ADV. SRI.MATHEWS K.PHILIP,SC, BSNL

RESPONDENTS: CLAIMANT/1ST RESPONDENT
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1. P.M.PREMARAJAN, S/O. PAYYANPUTHAN VEETTIL, RAMANKUTTY NAMBIAR @ KUTTYAPPA, CASHIER, MULLAKKODI CO-OPERATIVE RURAL BANK, IRAVAPUZHA, NAMBRAM.

2. P.M.BALAKRISHNAN NAMBIAR, S/O. RAMANKUTTY NAMBIAR, KAYARALAM AMSOM, VELAM DESOM, TALIPARAMBA TALUK.

3. P.M.CHANDRAMATHY, D/O. KUTTYAPPA NAMBIAR, PALAKKAL MEETHAL HOUSE, MAYYIL P.O., IRAVUPUZHA NAMBRAM.

4. P.M.KOMALAVALLY, D/O. KUTTYAPPAN NAMBIAR, PALAKKAL MEETHAL HOUSE, MAYYIL P.O., IRAVUPUZHA NAMBRAM.

5. P.M.SHYLAJA, D/O. KUTTYAPPAN NAMBIAR, PALAKKAL MEETHAL HOUSE, MAYYIL P.O., IRAVUPUZHA NAMBRAM.

6. KARTHIYANI, D/O. KUTTYAPPA NAMBIAR, PALAKKAL METHAL HOUSE, MAYYIL P.O., IRAVUPUZHA NAMBRAM.

7. THE SPECIAL TAHSILDAR, L.A., KANNUR.

BY ADV. SRI.GRASHIOUS KURIAKOSE
SRI.M.K.SUMOD
SRI.KAUSER EDAPPAGATH

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION ON 30/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Kurian Joseph & T.R. Ramachandran Nair, JJ.

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L.A.A..NO.58 of 2007

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Dated this the 30th day of July, 2007

JUDGMENT

T.R. Ramachandran Nair, J.

This appeal is filed challenging the decree and judgment in L.A.R.No.344/2001 of the Sub Court, Thalassery. The land was acquired for the construction of Telephone Exchange and staff quarters, as per the requisition of the appellant herein. Notification under Section 4(1) was published on 8.12.1999 and the land was taken possession on 29.11.2000. The land value fixed as per the award is Rs.7.081/- per cent. The total extent acquired is 20 ares of land. The claimant sought for enhancement of the land value at the rate of Rs.80,000/- per cent.

2. The evidence adduced on the side of the claimants include Aws.1 and 2, as regards Exts.A1 and A2 and Ext.X1. R.Ws.1 and 2 were examined on the side of the respondent and Ext.B1 was marked.

3. AW.2 is the first claimant and going by his evidence, the acquired land is situated at a commercially and industrially important area of Mayyil town. The property is abutting Kannur-Mayyil-Kandakkai road which is a P.W.D. road. There are various public institutions like a Higher Secondary

School, Health Centre, Panchayat office, Agricultural Office, Office of the K.S.E.B., Post Office, Community Health Centre, Irikkur Block Agricultural Office, which are situated within 100 metres from the acquired land. There is a famous Ganapathy temple and a Kalyana Mandapam within a short vicinity. Ext.X1 is the report of the Commissioner, Going by the report of the Commissioner, the basic land is situated at a distance of 2 km. away from the acquired property and is not having any road access. According to him, it is in an interior place also.

4. The court below has considered the evidence of Rws.1 and 2 also and found that the acquired land is adjacent to a main road connecting Mayyil and Kandakkai and there is a bus route also. Even going by Ext.B1, there is only a jeep road near the basic land. There are no satisfactory evidence also before the court below to conclude that the basic land is having road access and the document also was not produced by the respondents.

5. Ext.A2 was relied upon by the claimants to seek enhancement of the market value. The land is lying at a distance of 1 km. away from the acquired land. It is adjacent to Parassini Road. Going by the report of the Commissioner also, it is evident that the land is of similar nature and is similarly situated. In view of the above circumstances, the court below has

accepted Ext.A2 for fixing the market value and the same has been fixed at Rs.15,000/- per cent. Going by the advantages and potentialitiess of the acquired land and the land covered by Ext.A2, they are more or less similar. The document was executed in the year 1997 and 12 ¼ cents of land has been sold for a total consideration of Rs.1,83,750/-. Therefore, the value per cent will be Rs.15,000/-.

The court below has fixed the land value on a rational basis and we find no reason to interfere with the said fixation. The appeal is dismissed. No costs.

(Kurian Joseph, Judge.)

(T.R. Ramachandran Nair, Judge.)

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